

§ 301.31 Allocations to local educational agencies.

(a) *Base payments.* The State shall first award each agency described in § 301.30 the amount that agency would have received under section 619 of the Act for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as then in effect.

(b) *Base payment adjustments.* For fiscal year 1998 and beyond—

(1) If a new LEA is created, the State shall divide the base allocation determined under paragraph (a) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages 3 through 5 currently provided special education by each of the LEAs;

(2) If one or more LEAs are combined into a single new LEA, the State shall combine the base allocations of the merged LEAs; and

(3) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages 3 through 5 changes, the base allocations of affected LEAs shall be redistributed among affected LEAs based on the relative numbers of children with disabilities ages 3 through 5 currently provided special education by each affected LEA.

(c) *Allocation of remaining funds.* After making allocations under paragraph (a) of this section, the State shall—

(1) Allocate 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and

(2) Allocate 15 percent of those remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the SEA.

(3) For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enrolled in public and private elementary and sec-

ondary schools and the numbers of children living in poverty.

(Authority: 20 U.S.C. 1419(g)(1))

§ 301.32 Reallocation of local education agency funds.

(a) If a SEA determines that an LEA is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under section 619 of the Act that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

(b) If a State provides services to preschool children with disabilities because some or all LEAs and ESAs are unable or unwilling to provide appropriate programs, the SEA may use payments that would have been available to those LEAs or ESAs to provide special education and related services to children with disabilities aged 3 through 5 years, and to two-year-old children with disabilities receiving services consistent with § 301.1 who are residing in the area served by those LEAs and ESAs.

(Authority: 20 U.S.C. 1414(d), 1419(g)(2))

PART 303—EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

Subpart A—General

PURPOSE, ELIGIBILITY, AND OTHER GENERAL PROVISIONS

Sec.

303.1 Purpose of the early intervention program for infants and toddlers with disabilities.

303.2 Eligible recipients of an award.

303.3 Activities that may be supported under this part.

303.4 Limitation on eligible children.

303.5 Applicable regulations.

DEFINITIONS

303.6 Act.

303.7 Children.